

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
) Cr. No. 05-CR-30042-MLW
CESAR CRUZ,)
and)
RICARDO DIAZ,)
Defendants)

GOVERNMENT'S MOTION PURSUANT TO UNITED STATES V. RENGIFO
REGARDING ENGLISH-LANGUAGE TRANSLATIONS
OF TAPE-RECORDED SPANISH CONVERSATIONS

Now comes the United States of America, by its attorneys, Michael J. Sullivan, United States Attorney, Andrew Lelling, Assistant U.S. Attorney, and Paul Hart Smyth, Assistant U.S. Attorney and moves for leave to introduce into evidence at trial: (1) copies of original tape recordings made during the investigation of this case, which recordings are partially in Spanish; and (2) transcripts which contain the Spanish portions of those conversations (as well as the balance of the conversation in English) and English translations of those portions of the conversations. The government further requests leave to read into evidence all or part of the English translations.

As grounds for the within motion, the government states as follows:

During the investigation that led to this case, the government made tape recordings of conversations with the Defendants. The conversations were recorded after receiving

consent from one of the participants in the conversation. The government also obtained consensually-recorded telephone calls from the Hampshire County Jail. The recorded conversations were partially in Spanish. The government has prepared transcriptions which include both the Spanish portions of the conversations and translations of those portions into English. The government has provided drafts of all transcripts prepared to date to the defense. The government expects to provide its final version of all transcripts and translations to defense counsel prior to the beginning of trial. The government will offer testimony at trial that the Spanish portions of the transcripts and the English translations of those portions are true and accurate.

The government moves for leave to introduce into evidence at trial copies of the original tape recordings which include all portions of the underlying conversations that took place at least in part in Spanish, transcriptions which include the portions of the conversations that took place in Spanish and English translations of those portions of the conversations, and further requests leave to read into evidence all or part of the English translations. United States v. Rengifo, 789 F.2d 975, 983 (1st Cir. 1986) (finding that English-language translations of tape-recorded conversations that originally took place in Spanish are admissible as substantive evidence; that such transcripts may go to the jury room; and that the government may use readers to read the English translations as an alternative to playing the tape

recording).

Based on the foregoing, the government's motion for leave to introduce into evidence at trial copies of the original tape recordings and the English translations of those portions of the conversations, and to read into evidence all or part of the English translations, should be allowed.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Paul Hart Smyth

Paul Hart Smyth
Assistant U.S. Attorney